

**REPORT TO:** Mayor James M. Diodati  
and Members of Municipal Council

**SUBMITTED BY:** Fire Department

**SUBJECT:** **FS-2015-11**  
**Open Air Burning – Supplementary 2**

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## **RECOMMENDATION**

That Council maintain the principles of the existing by-law and make amendments to eliminate wood for use in cooking fires.

## **EXECUTIVE SUMMARY**

At the last Council meeting, the Fire Chief was asked to report back on three matters that would assist Council in making decisions regarding possible changes to the Open Air Burning By-law.

The first matter involved contacting the Ontario Fire Marshal to determine whether the municipal council could restrict wood as a fuel for cooking fires referenced by the Ontario Fire Code. Contact was made with the Ontario Fire Marshal who indicated that a municipal council could indeed determine which fuels can be used for cooking fires (Attachment 1). Therefore, wood can be restricted from being used for cooking fires, thereby eliminating the “hotdog loophole”. (If this option is accepted by Council, the next two matters are moot, in that no recreational, wood burning fires can be permitted in Niagara Falls. However, if Council does not choose to maintain the principles of the existing by-law and allow recreational fires, then the next two matters are relevant.)

The second matter was determining a smaller and more reasonable size for a recreational fire, rather than the one metre average that was provided in a previous report. Upon reconsideration, a fire size of .6 metre diameter by .6 metre flame height is recommended within a fully screened container.

The third matter was determining a more reasonable setback requirement for fires. There are two considerations to review regarding setbacks. The first is the setback distance to combustibles to reduce the spread of fire. The second is the setback distance to reduce the negative impact of smoke from fires to neighbouring residents. The setbacks of 50 feet in the current by-law gave consideration to both of these hazards. This meant a 100 foot diameter circle around any fire would need to be devoid of structures, combustible fences, decks, etc. The setbacks currently being looked at are less than one third of the existing by-law setbacks in order to allow the majority of residents within the city to burn recreational fires. These setbacks do not take the negative impact of smoke into consideration and will increase the number of residents who are negatively impacted by fires.

If Council wishes to increase setbacks to address smoke conditions, the existing 50 foot setback would be more appropriate.

In addition, a restriction was considered for recreational fires in the vicinity of residents who report health concerns where fires exacerbate their conditions. The last consideration brought forward to Council was a restriction to abutting lands where a smoke related health condition was raised. After considerable review, there is no change provided regarding these restrictions.

## **BACKGROUND**

This report constitutes the third report including a by-law for consideration of Council on this matter. A fulsome background can be gleaned from these reports. It is recognized that Council wishes to satisfy all interested parties and has required significant input in order to make an informed decision.

## **ANALYSIS/RATIONALE**

The recommendation of the Fire Chief has remained unwavering throughout this process. Niagara Falls has been served well by the intent of the current by-law and we now have further information that allows for the “hotdog loophole” to be closed, allowing reinforcement of the fact that Niagara Falls is an urbanized setting where issues with smoke from recreational fires will likely create negative impacts on neighbours.

The change to a .6 metre by .6 metre fire size will be more limiting in smoke generation, reduce the chances of accidental fire spread and limit the need for larger stockpiles of firewood.

A more reasonable setback will include a consideration for the impact of smoke. From speaking with area residents who have smoke related health concerns, restricting abutting lands from burning will likely not solve their problems. This medical restriction is anticipated to be problematic for a number of reasons. First, the fire department would be receiving these requests. We may issue permits to residents prior to applicants coming forward for restrictions near their homes. We would then need to rescind permits and refund permit fees to those who were given permits but who now must no longer burn, due to their neighbour’s health restriction application. The applicant may cause four of five of their neighbours to be restricted from having recreational fires and it may cause tension between neighbours. The restriction does not address neighbours across the street, or more than one house away, who may be in close proximity to the applicants. However, if we choose to go further with the restrictions then we end up evaluating medical severity or we would be asking doctors to determine how far smoke will travel and when it will disperse enough to not be hazardous. These scenarios are fraught with problems and therefore the very straight forward abutting neighbours restriction remains most consistent.

## **FINANCIAL/STAFFING/LEGAL IMPLICATIONS**

These considerations have been discussed in previous reports and remain valid.

**CITY'S STRATEGIC COMMITMENT**

The intent of this report is to allow Council to provide residents the opportunity for enjoyment of their properties.

**LIST OF ATTACHMENTS**

1. Email from the Ontario Fire Marshal and Chief, Emergency Management

**Recommended by:**

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Lee Smith, Fire Chief

**Respectfully submitted:**

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Ken Todd, Chief Administrative Officer

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